

ANSWERS

For the Free-men Fleshers of Edinburgh, to the Petition presented to His Majesty's high Commissioner, and the Honourable Estates of Parliament, by Alexander Milne and William Laiton, Andrew Brown, Archibald Douglass, Janet Carle Relict of Unquhile Thomas Wright Fleshers of the said Burgh, against them.

THe Incorporation of Fleshers was Established by a Seal of Cause in their Favors granted by the Magistrats of *Edinburgh*, above two hundred Years ago, and continued in the Exercise and Possession of the Liberties and Priviledges thereby granted to them ever since that time, as well as any Incorporation of the said Burgh, and obtained these Priviledges particularly established, against the Invasions and Incroachments made upon them by the Un-free-men of the said Burgh, after hearing of both Parties; by an Decreet of Council, dated the seventh day of *June*, 1595 years, under the Hand of Mr. *John Skeene* Clerk register, as the samen herewith produced bears. And likewise by an Act of the Magistrats and Town Council of *Edinburgh*, dated the 20 of *August*, 1656 years, the sundry Priviledges, mentioned in the several Acts therein specified, are of new Ratified and Approven to them, and ordained to be made use of by the saids Free-men Fleshers, in all time coming; and particularly that the Un-free-men Fleshers in Burgh and Landward only sell their Flesh in open Mercat upon the Mercat Days, either by whole Carcasses, or at least Quarters, and no otherwise: All which Priviledges are Ratified in the Parliament 1681. As also by Decreet of the Lords of Privy Council, dated the twentieth sixth day of *November*, 1685. The Un-free-men Fleshers are expressly discharged to bring in, or hang any Beef, or other Flesh in the Flesh Mercat of *Edinburgh*, but upon the three common Weekly Mercat Days, and reserved the point of Right to be discussed by the Lords of Session, as the said Decreet bears; all which Priviledges are again Ratified by Act of Parliament, dated the fiftenth day of *June*, 1693 years: and particularly the foresaid Act of the Town Council, in anno 1656, where it is statute and ordained, that the whole Un-free-men Fleshers, keep only three Mercat Days in the Week, viz. *Tuesday*, *Thursday* and *Saturday*, as the said Ratification likewise bears.

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The Free-men Fleshers of *Edinburgh* being thus founded by the Seal of Cause, and other particular Rights above-mentioned, it is humbly conceived their saids Rights cannot be summarily taken away by a Decision, but the samen are only competent to be quarrelled or reduced before the Judge Ordinary; as the privat Rights of particular Parties, or Incorporations and Societies are in use to be. *Secundo*, If this Method be allowed of, to quarrel the Incorporation of Fleshers, then all the Incorporations within the several Burghs of *Scotland* may be brought in question the same way: and as it would be thought, both a Novelty and great Inconvenience upon the Liberties and Priviledges of the Burghs Royal, to have the Rights and Priviledges of their several Incorporations brought in question, and infringed by extraneous Persons; So it is hoped, His Majesty's High Commissioner and Honourable Estates of Parliament, will not open such a Door, by summarily destroying the Priviledges of the Free-men Fleshers, and thereby breaking their Incorporation. *Tercio*, The Act of the Town Council of *Edinburgh*, founded upon in the Petition, can no ways be Relevant to infer the Conclusion and Desire, in favours of the Un-free Fleshers, in respect. *Primo*, It is evident, the samen has never been intended for a perpetual Rule or standing Law in the Burgh, being only an Article subjoyned to a Table of Pryces for Butcher-meat, Wild-fowl, and other Vivers, made by the Magistrats of *Edinburgh* for the year 1688, and which being only made for one year, and by the constant Custom altered yearly, according to the scarcity or plenty of the said kind of Vivers: That Article could be of no more lasting or dureable Force, than the other Articles subjoyned to that Table of Pryces: and as it were absurd to pretend now, that the Wine should be sold at eighteen *shill. per Punt*, as it is appointed there, so it is no less absurd, to pretend that the Article about the Unfree-men Fleshers should be of perpetual Continuance. *Secundo*, There being an Act of Parliament made a little before that time, appoining Flesh to be sold by Weight, the Magistrats of *Edinburgh*, for bringing the Fleshers to the Obedience of that Act of parliament, did indulge the Unfree-men to sell by Weight upon all days of the week, to the effect they might constrain the Free-men Fleshers to Observe the foresaid Act of Parliament more readily: But that Act of Parliament falling in desuetude, and proving impracticable, and the Unfree Fleshers being the first that left off to sell their Flesh by weight, upon pretence of their being restricted to sell Carcasses, or at least Quarters. There was no reason they should enjoy that Article, as a perpetual Right which they had only been indulged the favour of for a particular time, for Ends and Causes they had never answered nor observed. In Consideration whereof, the Magistrats of *Edinburgh*, by their Act dated the 4th. of September, 1689 years, did of new again restrict the Unfree-men to the said three Mercat-days, conform to the Gifts and Priviledges conceived in favours of the Free-men, as the Act herewith produced will testifie. *Quarto*, It were a great prejudice, not only to the particular Incorporation of Free-men Fleshers within the Town of *Edinburgh*, to admit the Unfree-men to the equal Priviledges with the Free-men, but also to the whole other Incorporations and Land-Lords within the samen, in respect, if this Incorporation be broken, and no distinction be made betwixt Free men and Unfree-men, then the Free-men can never bear Scot and Lot of the Burgh, but their Proportions of Cesses, and all other publick Burdens which they did bear within Burgh, must necessarily fall upon

upon the other Incorporations and Land-lords, to the great prejudice of the Burgh, which it is hoped, His Majesties High Commissioner, and the Estates of Parliament does no ways intend, for gratifying only two or three obscure and considerable Persons, who presumptuously assume the general Designation of Un-free-men; and albeit three or four of the Petitioners have had the presumption to give in the Petition in Name of the Un-free-men in general, yet the Generality and understanding Men of that Number, considering how much it would tend to the prejudice of the Inhabitants of the Burgh, have for most pregnant Reasons disclaimed the forsaide Complaint, and taken Instruments against the turbulent Movers thereof, as an Extract of the Instruments, here present to show bears. *Quinta.* The Magistrates of *Edinburgh* can easily rectifie any Abuses, that the Free-men Fleshers may happen to Commit, and accordingly every year, with Concurrence of the Lords of Session, do set Rates upon, and Rules for the Sale of all kinds of Vixers within Burgh. But they can no ways be answerable for Un-free-men, who are not subject to their Jurisdiction. And farther, His Majesties High Commissioner, and Estates of Parliament are humbly intreated to take into their Consideration, of what Evil Consequence this pretended Advantage would be, by tollerating Un-free-men, as is demanded in their Groundless Petition, for besides what is above Represented, which makes the Freedom of Incorporation as secure as Law can make it, yet if Un-free-men were tollerat to come in six days in the Week, then they may Combine amongst themselves to keep up their Fleshes from sale one day, unless they get what Pryces they please, because they know they can expose it the immediate next day thereafter, and so have advantage over the Inhabitants. Whereas, when they are restricted to three days in the week, they are obliged to sell at a reasonable Rate, because Fleshes will not keep uncorrupted until an other Mercat Day. And besides that, it is presumed, that the Country Fleshers would rather sell at easie Rates, than to carry back their Fleshes to the Country again, and they are in no worse condition than the Free-men are, for the Free-men are restricted from coming to the *Land-merc*at, except upon the same days that are already allowed to Un-free-men.

And whereas it is pretended, that the giving a toleration to Un-free-men, would hinder the Free-men to exact Exorbitant Prices. It is Answered, that three days being allowed to Country Fleshers, the Inhabitants may easily provide themselves in one day, as much as may serve them two: And if the Free-men should offer to exact greater Rates than the Un-free-men, then they would ruine themselves, and their Fleshes would ly un-sold, and before another Mercat day, would be unfit to be presented to a Mercat. And as to the present Dearth, it is unquestionably known to the Honourable Court of Parliament that the same is occasioned by the bad Season only.

And lastly, If the Freedom of the Incorporation should be incroached upon, and Infringed, then this evil doth inevitably follow, as it hath done in former times; that the Free-mens Servants do thereupon quite their Service, and look upon themselves to be as free as their Masters, and go to the Countrey, and in their Masters Names, do buy Bestial from Gentlemen and other Persons, and Butcher the same themselves, without ever paying these from whom they buy them: So that it may be said with confidence, that the Countrey hath sustained thereby the loss upwards of Fourty thousand Pounds, within these few Years: And that is not the only loss, but several others of the Un-free-men do
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buy at the Fourth Hand, and so consequently must sell at dearer Rates than the Free-men. By all which the Incorporation is abused, and are deprived of Servants, for serving the Leidges; which is occasioned by the countenancing and tolerating Unfree-men.

And if the Un-free-men Fleshers found upon an Act of the Privy Council, in the year 1687. & shall produce the same, no Respect ought to be had to that Act.

1. Because it is given *parte in audita*, and without either Complaint or Probation, at the instance of any Party, of any Abuses or Malversations done or committed by the Free-men Fleshers 2. This Act was sollicit for, and Impetrat by *Josias Johnston*, upon particular Grudge against the Free-men Fleshers, and he obtained it as a Gratification to him for his conversion to the *Romish Religion*. 3. This Act was a Deed of the Absolute Power, in the late Arbitrary Times, infringing the Priviledges of the City of *Edinburgh*, and met with the less Opposition that the Magistrats themselves were created by the same Power, which had swallowed up the hail Rights and Priviledges of the Magistrats of Royal Burghs, so that it was no marvel that they incroached upon one single Incorporation: and seing, by the late Revolution, and His Majesties gracious Favour, the Rights and Liberties of the Subject, and particularly of the Burghs Royal have been restored and recovered: It is hoped and expected from the Justice of the High Court of Parliament, that the Incorporation of the Free-men Fleshers shall be preserved in their Rights and Priviledges and Freed from any Invasions made upon them, in the late Arbitrary time, and not have their privat Right taken from them without any special Cause libelled: but only on the Clamour and Importunity of three or four Invidious and malicious Neighbours: And it is evident by the very Act it self, that all that was designed for them, was the Land-Mercat, that being the separat place for the Landward Fleshers, and it is notourly known that there never was, more than three Flesh-mercats days in that place.

In Respect whereof, it is hoped, His Majesties High Commissioner, and Honourable Estates of Parliament, will not cut off the Rights and Priviledges of so ancient an Incorporation, who is the Tenth Deaconry of the Burgh of *Edinburgh*, conform to the Sett and Decreet Arbitral, pronounced by King *James* the Sixth: But on the contrary, will be pleased to reject the desire of the foresaid groundless Petition; and of new again, to Ratifie and Confirm the Rights and Freedom of the Incorporation, as formerly was done, both in this Current Parliament, and others preceeding.

